



## **ORDINANCE 527**

**An ordinance amending Chapter 225 (Zoning) of the Code of the Town of Elsmere by adding a new section to be known as 225-8 (u) Solar Energy Equipment.**

**Sponsored by: Councilman John Pasquale , 6th District Councilman**

**First Reading: February 10, 2011 Council Meeting:**

**Results: Passed 7 In Favor, 0 Opposed**

**Third and Final Reading: March 10, 2011 Council Meeting:**

**Results: Defeated 3 In Favor, 4 Opposed**

## ORDINANCE 527

### **An ordinance amending Chapter 225 (Zoning) of the Code of the Town of Elsmere by adding a new section to be known as 225-8 (u) Solar Energy Equipment.**

**WHEREAS**, the Mayor and Council of the Town of Elsmere has adopted a comprehensive Zoning Ordinance to preserve and enhance the character of the Town and promote the general welfare of its residents; and

**WHEREAS**, the Mayor and Council periodically review the Zoning Ordinance to determine if revisions are warranted; and

**WHEREAS**, due to a number of factors, a greater interest has been expressed in alternative energy sources for both residential and commercial uses, including the use of solar panels and other forms of solar energy equipment; and

**WHEREAS**, the Mayor and Council believes that regulations are appropriate for solar energy equipment to permit their use subject to certain conditions, to allow town residents to take advantage of solar energy equipment while attempting to protect and ensure the value of neighboring properties.

**NOW, THEREFORE**, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF ELSMERE AS FOLLOWS:

1. That Chapter 225 Section 225-8 be amended to add a new Section 225-8 (u) Solar Energy Equipment, to read as follows;

**1 Purpose:** The purpose of this Section is to provide standards for the use of solar energy equipment as an accessory use within the Town of Elsmere. This Section seeks to protect properties from incompatible uses and to conserve and enhance property values, while promoting the use of alternative energy sources, where appropriate. This Section provides a process to facilitate the use of solar power in a manner that minimizes visual impacts of solar energy equipment and the potential for nuisance.

**2 Definition:** Solar energy equipment is defined as a solar photovoltaic panel, solar hot air or hot water panel collector device, or other type of energy system which relies upon solar radiation as a source for the generation of electricity or transfer of stored heat.

**3 Accessory Use:** Solar energy equipment shall be permitted as an accessory use in any zoning district upon receipt of a permit from the Code Enforcement Officer.

A. Exclusions from the permit requirement are as follows.

1. The installation of one (1) solar panel with a total area of less than eight (8) square feet.

- 2 Repair and replacement of existing solar energy equipment, provided that there is no expansion of the size or coverage area of the solar energy equipment.

**4. Application for a Permit:** A permit shall be required to install solar energy equipment with a total combined area of eight (8) square feet or more. An applicant seeking to install solar energy equipment shall submit an application for a permit, as provided by the Town. The application shall include photographs of the existing conditions of the property as well as renderings of the proposed solar energy equipment and its intended final location as well as a description of the screening to be provided for ground or wall mounted solar energy equipment. Additionally, every application shall include a statement from a Delaware licensed structural engineer stating that the intended location of the installation is structurally sound and capable of housing the intended solar energy equipment.

**5. Review of Application:**

- A. Upon receipt of a completed application for the installation of solar energy equipment, the Code Office shall refer the application to the Town of Elsmere Planning Commission who shall review the application and either approve the application or recommend alternatives to the application.
- B. If the Planning Commission recommends approval of the application, the Code Officer shall issue the permit for the work if the application complies with the requirements of this Section.
- C. If the Planning Commission recommends alternatives to the applicant, no permit shall be issued until the applicant formally acknowledges that he or she has received the recommendations of the Planning Commission and has modified their application to include those recommendations.
- D. If the Planning Commission recommends alternatives to the applicant, and the applicant chooses not to modify their application to include those recommendations, no permit shall be issued.
- E. Regardless of the action of the Planning Commission, the Code Officer shall have the authority to impose reasonable conditions to safeguard the public health, safety and welfare.

**6. Requirements for the use of solar energy equipment:**

- A. General.
  1. Solar energy equipment shall be located in the least visibly obtrusive location where panels would be functional.

2. Solar energy equipment must comply with all setback and height requirements for the zoning district in which the property is located.
3. Non-functioning solar energy equipment shall be repaired, replaced or removed within three (3) months of becoming nonfunctional.

B. Ground-mounted solar energy equipment.

1. Solar energy equipment shall only be located in the side or rear yard of a property.
2. Ground -mounted solar energy equipment may not exceed a height of ten (10) feet in height above the ground.
3. Solar energy equipment must be substantially screened from public view (including adjacent properties and public rights of way) by fencing, plantings, or a combination thereof, as determined by the Officer.
4. All exterior electrical and/or plumbing lines must be in placed in a conduit and buried below the surface of the ground.
5. Solar energy equipment shall not block any required parking areas, sidewalks or walkways.

C. Roof or wall-mounted solar energy equipment.

1. Roof-mounted solar energy equipment shall be installed in the plane of the roof (flush mounted) or made part of the roof design (capping or framing is compatible with the color of the roof or structure). Mounting brackets shall be permitted if the applicant can demonstrate that the existing pitch of the roof would render the solar energy equipment ineffective or would be impossible.
2. Solar energy equipment shall be located on a rear or side facing roof, as seen from the fronting street, unless the applicant can demonstrate that such installation would be ineffective or is impossible.
3. Solar energy equipment shall not project vertically above the peak of the roof to which it is attached, or project vertically more than five (5) feet above a flat roof.

4. All exterior electrical and/or plumbing lines must be painted in a color scheme that matches as closely as reasonably possible the color of the structure and the materials adjacent to the lines.

**7. Severability:** If any sentence, clause, section or other part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not effect or impair any remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared as the intent of the Mayor and Council of the Town of Elsmere that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

\_\_\_\_\_  
February 10, 2011  
First and Second Reading

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March 10, 2011  
Third and Final Reading

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Deborah A. Norkavage, Mayor

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Joann I. Personti, Secretary

Approved as to form:

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Town Solicitor

## SYNOPSIS ORDINANCE 527

This Ordinance provides standards for the use of solar energy equipment as an accessory uses within the Town of Elsmere.

Fiscal Impact:           None